

GOVERNMENT OF GUAM
DEPARTMENT OF LAND MANAGEMENT

877243

OFFICE OF THE RECORDER

RECORDING DATE: APRIL 15 2015		877243	NO. PAGE:
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Appointed Deputy Recorders for Ex-Officio Recorder <i>Lisa Q. Mangger</i> ; Lisa P. Cruz, Jane T. Yamasaki; Victoria C. Torres; Amy T. Bautista; Joel Antenoracruz;		Signature of Recorder 	
MARK (X) TYPE OF INSTRUMENT RECORDED			
DEED	<input type="checkbox"/>	AFFIDAVIT	<input type="checkbox"/>
MORTGAGE	<input type="checkbox"/>	RELEASE	<input type="checkbox"/>
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ABSTRACT OF TITLE SUMMARY			
ABSTRACT BY:	DATE	NEW CERTIFICATE OF TITLE NO.	CANCELLED CERTIFICATE OF TILE NO.
COMMENTS			
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L.M. NO.			
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Island of Guam, Government of Guam
Department of Land Management Officer of the Recorder

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File for Record is Instrument No. _____

On the Year 15 Month 02 Day 15 Time 3:12
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Deputy Recorder Juan O. Mangger

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ORIGINAL

**GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
(CORRECTED)**



Department of Land Management Conference Room
ITC Building, Tamuning



Thursday, February 26, 2015
1:40 p.m. to 3:25 p.m.

GUAM LAND USE COMMISSION

Thursday, February 26, 2015

Department of Land Management Conference Room
ITC Building, Tamuning

MEMBERS PRESENT:

Mr. Lawrence Rivera, Chairman

Mr. John Arroyo, Vice Chairman

Ms. Conchita Bathan, Commissioner

Mr. Andrew Park, Commissioner

ABSENT:

Ms. Beatrice "Tricee" Limtiaco, Commissioner

Mr. Victor Cruz, Commissioner

STAFF PRESENT:

Mr. Frank Taitano, Planner IV

Ms. Celine Cruz, Planner IV

Ms. Cristina Gutierrez, Recording Secretary

GUAM LAND USE COMMISSION
GUAM SEASHORE PROTECTION COMMISSION

Department of Land Management Conference Room
590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

Date of Meeting: Thur., February 26, 2015

Time of Meeting: 1:40pm

<input checked="" type="checkbox"/>	GLUC	<input type="checkbox"/>	GSPC
<input checked="" type="checkbox"/>	Regular	<input type="checkbox"/>	Regular
<input type="checkbox"/>	Special	<input type="checkbox"/>	Special
<input checked="" type="checkbox"/>	Quorum	<input type="checkbox"/>	Quorum
<input type="checkbox"/>	No-Quorum	<input type="checkbox"/>	No-Quorum

COMMISSION MEMBERS

Lawrence S. Rivera, Chairman

John Z. Arroyo, Vice Chairman

Conchita D. Bathen, Commissioner


Beatrice "Tricee" P. Limtiaco, Commissioner


Victor F. Cruz, Commissioner


Andrew C. Park, Commissioner

Vacant, Commissioner

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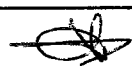




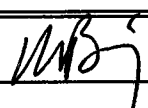


Absent

Absent



Michael JB Borja
Executive Secretary



Kristan K. Finney, Legal Counsel

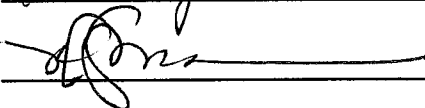



Marvin Q. Aguilar, Guam Chief Planner

Frank Taitano, Planner IV

Penmer Gulac, Planner IV

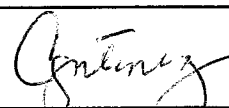
Celine Cruz, Planner IV





Joseph Guevara
Chief Bldg. Inspection Administrator (DPW)

Cristina Gutierrez, WPS II



ADJOURNMENT: 3:25pm

Speakers Sign-In Record

<input checked="" type="checkbox"/>	GLUC	<input checked="" type="checkbox"/>	Regular	Date:	Thursday, February 26, 2015	
<input type="checkbox"/>	GSPC	<input type="checkbox"/>	Special	Time:	1:40	
<input checked="" type="checkbox"/>	Quorum	<input type="checkbox"/>	No Quorum	Adjournment:	3:25	

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Public Attendance Record

<input checked="" type="checkbox"/>	GLUC	<input checked="" type="checkbox"/>	Regular	Date:	Thursday, February 26, 2015	
<input type="checkbox"/>	GSPC	<input type="checkbox"/>	Special	Time:	1040	
<input checked="" type="checkbox"/>	Quorum	<input type="checkbox"/>	No Quorum	Adjournment:	8:25	

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GUAM LAND USE COMMISSION REGULAR MEETING MINUTES
Department of Land Management Conference Room, 3rd Floor ITC
Thursday, February 26, 2015 • 1:40 pm to 3:30 pm

I. Notation of Attendance

Chairman Rivera called the regular meeting of the Guam Land Use Commission for Thursday, February 26, 2015 to order at 1:40 p.m., noting a quorum.

Present were: Chairman Lawrence Rivera, Vice Chairman John Arroyo, Commissioner Conchita Bathan, Commissioner Andrew Park, Executive Secretary Michael Borja, Legal Counsel Kristan Finney, Guam Chief Planner Marvin Aguilar, Case Planner Celine Cruz and Recording Secretary Cristina Gutierrez.

[Absent: Commissioners Tricee Limtiaco and Victor Cruz]

II. Approval of Minutes

Chairman Rivera next on our agenda is the approval of our Minutes; the regular meeting of Thursday, February 12th, Commissioners have you had a chance to review that? And if so, I would like to have a motion.

Commissioner Bathan I make a motion to approve the Minutes of the GLUC regular meeting of February 12, 2015; subject to any corrections that will be submitted to Cristina by close of business today.

Vice Chair Arroyo I second.

Chairman Rivera motion by Commissioner Bathan, second by Vice Chair Arroyo; all in favor of the motion to approve say "aye" [**Chairman Rivera, Vice Chair Arroyo, Commissioners Bathan and Park**], all oppose say "nay."

[Motion to approve the Minutes of February 12, 2015 was passed unanimously; 4 ayes, 0 nay]

III. Old or Unfinished Business [None]

IV. New Business [None]

V. Administrative and Miscellaneous Matters

Chairman Rivera I want to go ahead and hit the HPR then we'll come back to your administrative issues.

Horizontal Property Regime

- A. The Applicant, Karen Young S. Kim (Developer) represented by Melinda S. Swavely, Esq.; requests issuance of its Sixth Supplementary Final Report for Happy Condo located on Lot 10, Block 1 in the Municipality of Tamuning, HPR No. 160, under Application No. 2008-78F.
Case Planner: Celine Cruz

Celine Cruz summarizes the staff report to include purpose, facts and staff recommendation.

Chairman Rivera questions for staff? This instrument number 780259 is that Land Management's

Celine Cruz yes.

Marvin Aguilar that is our recording number.

Chairman Rivera any questions for staff?

Commissioner Bathan if you consider the issuance of the sixth supplemental final public report; the previous one expired on ... the current one will be expired on March 13th, so if we will renew for a period of 13 months that will be counting from March 13th right? Not on the hearing date?

Celine Cruz actually, the regulation is that it's 13 months from the date of issuance. And so if we do issue it today, it's going to be 13 months from today.

Commissioner Bathan okay.

Marvin Aguilar and the reason why for that thirteen month is to allow for administrative work (that's my understanding); it's supposed to be a year.

[Brief discussion and clarification on actual expiration date of the HPR.]

Chairman Rivera questions for staff? [None noted] Ma'am, please introduce yourself for the record.

Melinda Swavely good afternoon Chairman, Commissioners, Legal Counsel. Yes, we are requesting for the sixth supplementary final report. The developer still wants to continue to try

to sell the units. She suffered a loss actually; there were four units and she had to sell the initial two just to try to recover costs, pay off loans, and so she's been holding on to the last two; she is renting them in the hope that the market will continue go up, have an upswing and then she can at least recover her development costs. I actually may see you here again next year. Hopefully, the market will improve. She said she really is waiting to see if the market so she can recoup her cost. She put almost 1.3 million into it. I think the two units she sold were somewhere around \$275K. She doesn't think she'll totally recoup, but at least have a smaller margin of a loss there.

Vice Chair Arroyo what is your target selling price?

Melinda Swavely well, I guess as high as possible. I think she would like to get somewhere closer to \$400K. I don't know if she could really get that much. I spoke to Sue Choi (sp?) who is her Realtor and she said she's watching the market for her.

Vice Chair Arroyo do you have any projections when they think that the market might be (undecipherable) enough to

Melinda Swavely well, I wish I did I might even invest myself. Quite frankly, I don't know. There's an expense involved in there having to continue to request supplementary final reports, and so I think they want to put an end to this. So, hopefully it won't be too much longer. When I spoke to her she said she was renting it because she just can't get the price she needs.

Vice Chair Arroyo so you said she sold the first two at \$275K [**Ms. Swavely** – “I think around there.”] and she's looking at about \$400K?

Melinda Swavely yeah, well three something or but she's able to rent one. Actually, she's just letting her daughter stay in the other one because she doesn't want to sell it at a loss. I suggested that maybe she wanted to give it to her daughter, but that didn't go through. Because once she deeds the units, whether sells them or deeds them, then she doesn't have to go through this process. But, she wanted to hang on to the units, so it's her choice.

Chairman Rivera well, I'm glad you always make the time. We always feel for you and we want you and your applicant to be successful.

Melinda Swavely thank you.

Commissioner Bathen it's good that interest rates are lower; but it helps at least on her side for the loan, for the mortgage.

Chairman Rivera and this was the only changes that the original project was the sale of the ...

Melinda Swavely actually, initially there were two developers; one of the developers, Mr. Choi he passed away so we had the property transferred into her name. He passed away I think right after the final and then she also refinanced after she got some money. But, that's been maybe since the second report; and so, since then it's been consistent.

Chairman Rivera anymore questions for the applicant? You want to move forward?

Commissioner Park I move to approve the Application No. 2008-78F request for issuance of sixth supplementary final public report for Karen S. Kim as recommended by the staff.

Marvin Aguilar point of correction; if we can use the term "accept" as opposed to "approved."

Commissioner Park I correct my motion to "acceptance."

Commissioner Bathan I second.

Chairman Rivera motion by Commissioner Park, second by Commissioner Bathan. Any final discussion? **[None noted]**

All in favor of the motion to accept the issuance of the sixth supplementary final public report say "aye" **[Chair Rivera, Vice Chair Arroyo, Commissioner Park and Bathan]**, all opposed say "nay."

[Motion to accept was passed unanimously; 4 ayes, 0 nay]

Melinda Swavely thank you for accommodating me today.

Chairman Rivera we'll go ahead and go back the administrative and miscellaneous matters. The Chief Planner has just given us administrative items on discussion and the first one is the proposed resolution on the limited commercial requirements. Commissioner Limtiaco did some work for us and she sent us an email and I forwarded to everybody. Did I forward you a copy Marvin?

Marvin Aguilar yes sir. Actually, her comments and corrections are reflected on the draft I just handed out.

Chairman Rivera basically, Tricee did a very good job, an excellent job; she gave us some breakdowns and the authority, the discussion, and even the numbers of the type of zoning. And at this time, I'll go ahead and open it for discussion.

Vice Chair Arroyo I think she did a good job in pointing out the things we can and can't do. And I really like her use of the comparison kind of giving us a road map of how to compare the or define limited commercial use by using what's already in the regulations in comparison between M1 and M2, and so I think that was really clever of her to do. For sure it does need more

discussion. One of the things though that I thought about as I was reading this, her suggestion, proposed permitted uses is really open-ended, and I think to begin with that's probably a good idea until we can gauge through hearings what types of or how we're applying limited commercial use for a typical type of projections and applications, and then we can get some focus and maybe add a little bit more meat to it. The only thing I thought about with respect to being so open-ended like this is how does an applicant or developer, how do they know how to apply for a limited commercial use permit if it's just so open-ended. Is it a situation where they would come in for a commercial zone and then we kind of pair it down a little bit and say you're best suited for this?

Marvin Aguilar that's one way to do it. Another way to do it is to look at what the applicant is actually proposing, the intended use. So, if he's adamant about putting a laundromat you could actually apply, limited commercial, only for a laundromat.

Commissioner Park that's what actually from the very beginning some examples were given for another State or something, and there would be a certain category A, B, C or something like that I really didn't like it. So think this is the only way and best way is that review the application by the Land Management planners and then they confirm with the applicant whether they ... I mean the special propose of the zone change, then we can put it as a limited commercial and if they apply for a mom and pop store we just put a mom and pop store and we don't have to think about other group or category which would be very complicated and which also will make the process difficult and confused. Whatever the purpose they request and if the Commission agrees, then that will be the limited purpose.

Commissioner Bathan that seems to me like a conditional use right?

Commissioner Park no, it's different.

Chairman Rivera it's almost similar, but at this time ... going back to the Vice Chair's concern when the applicant comes in here, I know you've done this before Marvin where you know the Land Use Commission's position on certain things where you say you're better off if you go conditional use rather than asking for commercial because they basically don't allow that. Your chances of being disapproved and that's where kinda guide them.

Marvin Aguilar there a lot of administrative restrictions on the approach to rezoning; namely, if you get tabled twice (or four times, I don't have the law in front of me), that piece of property cannot go through a rezone ever again.

Commissioner Bathan not even after a year?

Marvin Aguilar not even after a year, it is final; and we have an AG's opinion on that. So, perhaps in certain cases where there is an attempt to rezone but the timing isn't right we make that recommendation to the property owner to be really careful. We do go through a pre-review process with these applications. If done right, you have a property owner coming in and visiting

Mr. Aguilar (cont'd) us several times before they submit their application. But on the same side, every person on this island if they own a piece of property has the right to request a rezone of their property. So notwithstanding, if they should elect to just proceed with it and take their chances, here's that opportunity where you can apply the limited commercial status. As well, when we vet these applications at the preliminary stage we afford that opportunity to consider other options like a condition use, perhaps a variance, perhaps or whatever mechanisms that are available under the zoning law. But, there are cases where they insist.

Commissioner Park limited commercial is much better than conditional use permit because of the financing issue.

Commissioner Bathan but what I'm saying is if we specify the purpose based on the application for a store if they change it later to another commercial use

Commissioner Park they must come back for change ... they need to submit a new application for a zone change from limited commercial to "C" or from LC to M1 or whatsoever.

Chairman Rivera I think what Mr. Park is saying that if we do go with a limited term for example for a laundromat and in the future they want to now change and make it a commercial he has to come back and reply.

Marvin Aguilar if you're going to look at a way to, let's say, the big concern we always have with a zone change to commercial, if the Commission is going to constantly discuss with the possibility of that property owner putting up a strip joint or putting up a liquor store or some kind of activity that may not be conducive to the community, this would be the way to do it. So in that respect, if he were to say that's all I want to do is just have a laundromat; okay maybe I want to do a store, okay maybe I want to do a car rental. Just like a conditional use permit we ask the applicant, please ask for everything you want to do on that property.

Michael Borja (Executive Secretary) the question I would have is that person who got the limited commercial zone for their property to be a laundromat for example and they sell their property ten years later and the new owner wants to put something else in there; he has to come back in and apply for a zoning permission and it could be for another limited commercial zone if he wants. And let's say now he wants to put in a restaurant, so that's all he's going to get under commercial is just for a restaurant. But right now it's only zoned for a laundromat so he can't use it for anything else except a laundromat, and if that's what he going to use it for he's okay.

Commissioner Bathan that is why I am a little bit confused with a conditional use because except for the financing issues; like for example, any zoning, lower zoning than commercial, they come here for a conditional use and then we give them a conditional use to operate a store, and under limited commercial, we allow them limited commercial zoning to operate a store so what difference is that.

Commissioner Park conditional use permit has expiration but limited commercial there's no expiration.

Commissioner Bathan that's right but there's some conditional does not expire (in the past). So I guess my question is when they come here and we approve limited commercial use to operate as a store they have other permitted use under limited commercial right?

Vice Chair Arroyo the way that it's proposed here is that we set conditions. And I guess the conditions are the type and the use of the land for whatever it is they're going to put up. So, if it's a laundromat or a store, laundromat, store or a carwash or whatever, then those uses are permitted.

Commissioner Bathan for as long as they're using limited commercial or do they have to come back?

Vice Chair Arroyo no, it's zoned R1 and if you want to change from R1 to R2 you gotta come back. If you want to change from L to LC, you still have to come back and go through the process. But Mike you had a pretty good concern and that was one of things that I am thinking about because at some point in time we're going to have to think about the ease to transition from one type of acceptable use in a limited commercial to another acceptable in limited commercial so that if you want to move from a laundromat to a store you don't necessarily have to come in and go through the whole application process and the expense to do that that there are some permitted uses so that you can move without having to come in and go through the process.

Commissioner Bathan yes, because a conditional use you're only limited to a store.

Commissioner Park I understand. You want to make it systemically so that

Commissioner Bathan whatever is permitted at that ---

Commissioner Park right, I understand.

Vice Chair Arroyo (undecipherable) saying in terms of the public right because if we make it so narrow then everytime they want to change the use they have to come back.

Commissioner Park just like uses in R1 and along with typical uses of R2 that's what you mean right?

Commissioner Bathan yes, yes.

Marvin Aguilar I'm just saying that's an optional way ... that's a way of looking at it. And you are going to have property owners that are going to be adamant about putting in a laundromat that's all I want today and as far as I can see in the next ten, twenty years it will be a

laundromat. Once they sell the property how do you track that? It's going to be difficult to do that because all those external industries like real estates and appraisers they're going to step in and more than likely going to stop at the part where they say the property is zoned commercial period. And that's the big issue we have to deal with and so those mechanisms have to be in place as well to be able to track it throughout all the years.

Commissioner Park if zone map says LC then the buyer will make inquiry to Land Management what is that limited.

Marvin Aguilar I'm just referring to the possibility of a zoning designation for some type of approval from the Guam Land Use Commission being either misconstrued or convoluted at some time or another where they call it something else and you don't have any records to follow. A good example is the Latte Heights store as you head east that is not commercial, that is a zone variance for a commercial retail facility. We found it paraphrased on how that was issued.

Vice Chair Arroyo so are you saying that on the zoning map it's zoned commercial?

Marvin Aguilar it's zoned "A." And they said, well I can do commercial ... well, you've got some restrictions and you go into the records and try to follow it and ... he has no time limits, it doesn't say how big the store is supposed to be, parking, all these restrictions we are putting now on these mom and pop stores. With all that it's very difficult. I foresee in the future even if we're putting it down the map it's going to be hard.

Chairman Rivera the only time it comes to us is when they want to improve or want to change to a liquor store and somehow they go to Rev and Tax, all these other agencies and they say wait, it's a limited commercial this is only for a laundromat you have to go back to the Land Use Commission. Just like how they do setbacks and they have to refinance it and they say oh, you need to get Land Management approval for them ... and that's the way you catch it.

Commissioner Park for your information when I wanted to apply for anything, the first department that I have to go to is Land Management. Without clearing with Land Management I cannot go to other agencies.

Marvin Aguilar more so if they can actually catch it on the business license side; we don't see eye to eye right now, or rather we don't see what they see and basically what they see is what they get from us.

[Discussion continues on how tax is assessed on property zoning designations; restrictions and/or conditions to be placed on limited commercial properties; discussion on conditional use permits versus limited commercial.]

Michael Borja I know you guys have been talking about this for a long time and really good discussions. We have to codify this once you do this and it's just a matter of getting it improved.

Chairman Rivera she did some research she did a summary she kinda gave us some things because I knew we were supposed to discuss that today, and then we'll get legal's review also. And of course her conclusion is basically once we're ready and she feel (sic) and I kinda feel that we should go through the legislative process. Before we do that we need to get all of our administrative documents and procedural ready for them and that way it's there. We've discussed this before and we really want to move forward. Everytime we come with a commercial Mr. Park, John and at least Tricee gave us something. So please go ahead and continue to work with it and I want Commissioner Cruz and Tricee to be back and then we'll continue our discussion open it more and then finalize it. At least we're straight ahead. The only thing we have and I know that the word that conditional use, and even during the time the commercial goes and it appears like it's not going to pass, we ask the applicant do you want to consider conditional use. Then go there and then says okay yes then that's when the chance comes. The end result in a conditional use after so many number of years of extending and then we say now we're going to give you commercial. It goes right back to the commercial zone, but at least we test the water and some of them were true. I know there is still a lot of work ahead.

Any other discussion? (None noted)

Marvin Aguilar if I may, bring before the Commission some items or projects that have been ongoing and going through my office and just to give the Commissioners, Chairman and Vice Chairman to see what's been going on lately and then I'll go back to the CLTC subdivision map.

Starting at number 2 we have the Globe and it is located in Tumon right next to the Sandcastle. And they want to do a modification of their property to add a coffee shop. The coffee shop is designed so that it will go up to its property line; but more seriously, it's going to a cover that's going to (inaudible) onto the easement. With an early discussion with Baldyga Group I found that they didn't have any problems with it based on the description of non-uses within a hotel zone, and particularly Treasure Island.

Michael Borja is it going to be an outdoor café?

Marvin Aguilar it's going to be an outdoor café; however, they are going to occupy their property but it appears that whatever is going to hold it up is going to go up to the property line and that's my understanding. I was more concerned about the cover that's proposed to come over their property line and into the easement which is the sidewalk.

I basically told them that pretty much all they needed was an encroachment permit from the Department of Public Works.

Vice Chair Arroyo I'm just a little concerned that if it rains if the easement is a path to the sidewalk that the water doesn't rush down on people on the sidewalk there.

Marvin Aguilar by looking at the draft design, it's supposed to go over, at one point of the sidewalk and then it's going to come down I think.

[Discussion continues on the design of the proposed café. Mr. Borja comments that Mark Baldyga is highly concerned about the image of Tumon. He further comments that Mr. Baldyga has already discussed this matter with DLM. He further adds that Mr. Baldyga is currently working with GVB to implement covenants for businesses, hotels, etc, in the hotel zone.]

Marvin Aguilar the third item is the inquiry about the change of use for the former Emerald Ocean Point Towers facility. As you may now the project had come before the Guam Land Use Commission and what may have been caught in a whole bunch of issues when it was first presented to the Commission is the fact that Emerald Ocean had come in for a height variance and a height variance alone. The property is zoned R2; and that being said, they can apply any type of use permitted within the R2 designation to include hotels, condominiums, single family homes, multi-family homes and other permitted uses under that section of the law. So there was an inquiry as to whether it's possible to apply a condo/hotel program, and my answer to them was yes. So, whatever they decide, final design or decision as to how they're going to use the property provide it's under the R2 designation and it's allowable they should not be able to have to come to the Guam Land Use Commission at all.

Chairman Rivera so it was just a height variance, the application was for a height variance.

Marvin Aguilar and anything related to a height variance, and my understanding is they've pretty much up to the point where they stopped construction they've met all of their requirements.

Michael Borja capping? Are they going up further a couple more stories?

Marvin Aguilar if they do decide go up further then of course they're going to have to come back.

Commissioner Park so are you going to use it for one use or hotel and residential combination?

Commissioner Bathan it depends ... maybe hotel.

Vice Chair Arroyo you should check on some of the restrictions or limitations on finance.

Chairman Rivera Marvin, should anything regardless ... height we'd like an update. What is their intent really whether condo and give us sort of briefing on what their intent.

Okay, any other questions? [None noted]

Marvin Aguilar as well we have the CAM5 project that's across the street here (referring to number 4 for Skydrenaline). If you don't know, Skydrenaline of course was disapproved to be placed in Tumon and Mr. Tim Ohno elected to use a piece of property at the Agana Shopping Center.

Vice Chair Arroyo was that disapproved or did that application just get withdrawn.

[Discussion continues on the history of the Skydrenaline application. It was clarified that the applicant Mr. Tim Ohno withdrew the application for the original site in Tumon. Mr. Aguilar added that there would be no need for him to come before the Commission for a height variance because the structure will be kept under 30-feet; however, the current site in Tamuning is on hold as well; the "CAM5" compound has one area that has not been developed and it remains clear. Mr. Aguilar further comments that it was important to bring it up because it was a concern of the property owner in the fact that when CAM5 came in for the height variance they actually came in with a master plan; and, they were advised that they were only coming before the GLUC for the height variance and the master plan was an internal issue for their project.]

Celine Cruz does that open up Tim Ohno now to put on the additional height?

Marvin Aguilar no, it does not. A zone variance for height is for a specific structure or specific use; although, he may want to officially to come in and inquire for clarification. The property is M1 light industrial so this type of use will be permitted as a recreational use.

Going further, we have the Sigua Highlands. There was an inquiry on the Sigua Highlands project that their one year was about ready to come up. And according to Ms. Celine Cruz, they had secured a clearing and grading permit for exploratory purposes. So, the one year deadline is now null and void.

Celine Cruz but it technically doesn't even apply because it was a zone change. Since that permit for site exploration we haven't heard any other type of communications from the representative (at the time was Duenas, Camacho & Associates). We worked very closely with Claudine Camacho with Duenas, Camacho & Associates and she's always on top of giving us heads up on anything coming through. Almost immediately after the Notice of Actions were signed and approved, they came in with that clearing and grading permit, so then they just didn't have anymore timelines that they had to worry about beyond that. Since then we really haven't heard anything more from them regarding Sigua.

Vice Chair Arroyo what does that mean exploratory purposes?

Marvin Aguilar finding their best fit roads, water lens, etc.

Michael Borja Marvin, didn't you tell me the other day that after they got our approval they still had to get Texas A&M's approval?

Marvin Aguilar my understanding was that Texas A&M was the property owner and hired Mr. Jortberg. They got him to represent them after he had lobbied to develop the property. And if you recall from the exchange of dialogue between Commission and Mr. Jortberg was that there were times where he had to ask them whatever inquiries the Commission would have; it was I have to get back to you. In this case, it appears that his (and I could be wrong) was to get the approval. He needs to get approval to move forward in terms of construction and the other phases that are involved.

For number 6 there's this plan to have a new district for Tumon; they want to revamp, there's a name for it. I don't know anything about it.

Michael Borja the hotel zoned stretch would be under this; just the Tumon district from the Hilton Hotel down to the Nikko that those areas would have certain covenants.

Vice Chair Arroyo I was invited to a presentation; I think they had some guys come out from Hawaii, the Waikiki area they had some consultants that helped the city of Honolulu develop this kind of zone for the Waikiki area, and put in the covenants and the do's and don'ts and it applied to everything that was within that area. And they were looking at doing the same thing for Tumon. It sounded like a good idea.

[Discussion continues on the Tumon district. Vice Chair Arroyo added that the idea was to make Tumon more upscale to provide a lot of uniformity with respect to the businesses and the operations that they do down in Tumon so that as a tourist when you're walking through that area it looks like what it's supposed to look like. Mr. Arroyo added that the only other concern was that if these conditions would apply to residential homes; discussion included how often houses and buildings would have to be painted, colors that were allowed, landscape maintenance, etc. and that there maybe some opposition from the homeowners.]

Marvin Aguilar my last item is the northern and central land use master plan. There still remains the issue whether (depending on who you talk to) this master plan has been adopted. Bureau of Planning says that it is a bonafide, passed by law, land use master plan and I say it's not. Only because if you read the way the law was written it states that they were going to accept (this is the Legislature) this master as an element of a comprehensive land use master plan. There is a difference of opinion on whether this passed. They are pressing on with it; they are actually meeting with the different villages through the Mayors' Council and show them how this plan can work for them. I've been in contact with the Program Administrator, Mr. Edwin Reyes (he is new on the job) and I was asking him that perhaps he would like to do a presentation to the Guam Land Use Commission as well. My position is that it's not an approved plan, but it is element of some future comprehensive plan that we're pushing towards.

Michael Borja Commissioners, I just wanted to let you know that I had to present an informational hearing for Land Management at the Legislature a couple weeks ago, and in there I did stress what the importance is of zoning. The request from us was that we be able to comment on everything and hopefully steer people who come to the Legislature to do zoning changes to allow them to do through the proper process because it's necessary.

[Mr. Borja comments on a bill that was authored by one of the senators; a bill for an individual who was asking for his property to be rezoned from agriculture to commercial. Land planners went out and inspected the property and found that it was actually already being used as almost an M1-zone and the business license that existed for that property was not for the property itself but for another property. The landowner was advised that he will need to go through the application process for a rezone. The other item that Mr. Borja brought that maybe coming through the Commission was an individual who has requested for a setback variance. He further added that he will not approve the individual's request nor grant a summary zone change because of an error in property lines.]

Chairman Rivera do you foresee any big projects coming up this year that we should know about?

Marvin Aguilar most of them are in place. There was talk about Guam Power Authority moving their Tanguissan facility from the shoreline to somewhere close to upper elevation, and so I'm keeping my eye on that.

[Lengthy discussion continues on developments that are forthcoming including a large development in Pago Bay.]

Chairman Rivera let's go back to the CLTC resolution. I know we have a draft resolution and I know you guys went through it; we have a final here, more or less a draft final which Tricee reviewed it and everything and we had the opportunity to look it over. It looks good to me. I know that the Chamorro Land Trust needs our support in getting their master plan moving forward. I don't see a problem with it.

Michael Borja I don't see a problem I know you guys added a section in here where the final approval authority is to the Chairman of the GLUC and that's not an issue. But, it's definitely something that would be very important as we move forward. As soon as the Chamorro Land Trust rules and regulations for commercial use are adopted then we're going to be able to begin doing a lot of other development especially through this purpose using subdivisions and we're looking at the possibility of small, medium, large development giving the chance for different sized contractors to come in and start building some homes in the Chamorro Land Trust areas. That's the way we envision how we can get infrastructure into places when it comes with houses and it's the cheapest way to do it. This would be very, very helpful.

Chairman Rivera the only concern Mike that I have here is I know Planning staff is really ... I mean he only has like three staff, and you as the Director and Executive Secretary kinda balance this out to make sure their daily operation, their application continues to flow and not kinda concentrate on this area and kinda back log this area.

Michael Borja I'm happy to say that it looks like my fiscal year 2016 budget is going to have some ability to expand personnel wise and most definitely we're going to be bringing in...try to bring in some additional planners. I definitely need to get some younger blood in this system, we have some senior people and have some throughout my department but most especially the planners there's a lot of corporate history residing on a few people. And we don't want to see a guy like Frank Taitano retire but he can retire when he feels it's necessary for himself, but we have to be ready for that and to leave it just undermanned, but also under experienced.

[Lengthy discussion continues on Land Management's current staffing, new hires, open positions to be filled, Matrix Group reviews and the delays in the issuance of certificate of titles.]

Michael Borja does this resolution need to be adopted?

Chairman Rivera we'll go ahead and vote for it. Marv, in order for it to move forward do we need to vote?

Marvin Aguilar yes. Any comments on the resolutions?

Kristen Finney I haven't reviewed it, but I also represent CLTC. I'm not sure that I can review it, but we might need to

Michael Borja why don't we hold it for the next meeting put it on the agenda so that it's an agenda item.

Chairman Rivera sure ... and at the same time it will give the opportunity for legal to just at least review and kinda concur. I mean, we're for it; we support your master plan.

Marvin Aguilar to clarify, this is to allow for Legal Counsel to review it (the resolution). For the record, this proposal is a response to a resolution from the Chamorro Land Trust Commission requesting the Commission (GLUC) take action under its authority to allow Land Management to do the things that it wants to do for these subdivision plans.

[Brief discussion continues on meeting dates for the Commission.]

Michael Borja we can wait for the next meeting; just put it on the agenda for the March 26th, and this will give the AG's Office time to review it.

Chairman Rivera if there are no others we'll go ahead to our agenda item which is adjournment.

Commissioner Park I move to adjourn the meeting.

Vice Chair Arroyo I second.


Chairman Rivera all in favor of the motion to adjourn say "aye." Thank you.

[Motion to adjourn passed unanimously; 4 ayes, 0 nay]


The regular meeting of the Guam Land Use Commission for Thursday, February 26, 2015
was adjourned at 3:25 p.m.

Approved by:

Transcribed by:



Lawrence S. Rivera, Chairman
Guam Land Use Commission



M. Cristina Gutierrez, Pro Tem
DLM, Planning Division

Date approved: March 26, 2015



GUAM LAND USE COMMISSION

Chairman Lawrence S. Rivera
Vice Chairman John Z. Arroyo
Commissioner Conchita D. Bathan
Commissioner Tricee P. Limtiaco

Commissioner Victor F. Cruz
Commissioner Andrew C. Park
Commissioner (Vacant)

Michael J.B. Borja, Executive Secretary
Kristan Finney, Assistant Attorney General

AGENDA

Regular Meeting

Thursday, February 26, 2015 1:30 p.m.

Department of Land Management Conference Room
590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning

- I. **Notation of Attendance** [] Quorum [] No Quorum
- II. **Approval of Minutes**
- GLUC Regular Meeting of Thursday, February 12, 2015
- III. **Old or Unfinished Business**
- IV. **New Business**
- V. **Administrative and Miscellaneous Matters**

Horizontal Property Regime

- A. The Applicant, Karen Young S. Kim (Developer) represented by Melinda S. Swavely, Esq.; requests issuance of its Sixth Supplementary Final Report for Happy Condo, located on Lot 10, Block 1, in the Municipality of Tamuning, HPR No. 160, under Application No. 2008-78F.
Case Planner: Celine Cruz

- VI. **Adjournment**

Administrative Items & Discussion Points:

1. Proposed Resolutions
 - a. Limited Commercial requirements.
 - b. CLTC Subdivision Master Plans.
2. The "Globe"- modification to add a coffee shop – (Baldyga Group)
3. Former Emerald Ocean Point - Conversion of Towers' Use All-Suites Condominium Hotel – (CoreTech).
4. SkyDrenaline move
5. Sigua highland
 - a. Status as of February 2015 – Celine Cruz
6. New District Consideration for Tumon
7. Northern & Central Land Use Master Plan
 - a. Requesting new Bureau of Statistics & Plans – Coastal Zone Management Program Administrator, Mr. Edwin Reyes and staff to provide a presentation to GLUC.

ATTACHMENT A



DIPATTAMENTON MINANEHAN TANO'
(Department of Land Management)
GUBETNAMENTON GUAHAN
(Government of Guam)



Street Address:
590 S. Marine Corps Drive
Suite 733 ITC Building
Tamuning, GU 96913

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

MICHAEL J.B. BORJA
Director

DAVID V. CAMACHO
Deputy Director

February 18, 2015

Memorandum

TO: Chairman, Guam Land Use Commission

FROM: Guam Chief Planner

SUBJECT: Staff Report - Application No. 2008-78F Request for Issuance of Sixth Supplementary Final Public Report

RE: Happy Condo – Registration Number 160

Mailing Address:
P.O. Box 2950
Hagåtña, GU 96932

Website:
<http://dlm.guam.gov>

E-mail Address:
dlmdir@land.guam.gov

Telephone:
671-649-LAND (5263)

Facsimile:
671-649-5383

1. **PURPOSE:**

A. **Application Summary:** Karen Young S. Kim, represented by Melinda C. Swavely, Esq. request for a Sixth Supplementary Final Public Report for "Happy Condo", on Lot 10, Block 1, in the Municipality of Tamuning, in an "R-2" (Multi-Family Dwelling) zone, HPR Registration No. 160, under application No. 2008-78F, pursuant to §45101 to §45155, Chapter 45, Horizontal Property Regime Act.

B. **Legal Authority:** Title 21, GCA (Real Property), Chapter 45 (Horizontal Property Act), §45154, Automatic Expiration of Public Reports.

2. **FACTS:**

A. Pursuant to §45154 of Chapter 45, Title 21, GCA, all public reports expire thirteen (13) months after the date of issuance of said public report. The Commission approved and issued the Final Public Report for "Happy Condo" August 14, 2007 and with an expiration date of September 14, 2009. (Reference Instrument No. 780259 dated October 3, 2008).

B. First Supplementary Final Report was issued on September 24, 2009, expiring on October 24, 2010. (Reference Instrument No. 796768 dated September 2, 2009).

C. Second Supplementary Final Report was issued on June 13, 2011, expiring on November 24, 2012. (Reference Instrument No. 822857 dated June 6, 2011).

**Staff Report – Request for Issuance of Sixth Supplementary Final Public Report
“Happy Condo” (HPR Registration No. 160)**

Page 2 of 2

- D.** An Amended Second Supplementary Final Report was issued with a new expiration date of November 24, 2011. (Reference Instrument No. 844836 dated December 3, 2012).
- E.** Third Supplementary Final Report was issued on November 8, 2012, expiring on December 24, 2012. (Reference Instrument No. 844936 dated December 5, 2012).
- F.** Fourth Supplementary Final Report was issued on December 24, 2012, expiring on January 24, 2014. (Reference Instrument No. 845124 dated December 11, 2012).
- G.** Fifth Supplementary Final Report was issued on February 13, 2014, expiring on March 13, 2015. (Reference Instrument No. 862339 dated March 5, 2014).
- H.** Units A and B of the Project have been sold. The developer wishes to continue sale of the remaining units, units C and D, thus, her request for a Sixth Supplementary Final Public Report.

I. Changes to Original Project.

The project is now subject to the following mortgage and assignment of rental income: 1) Mortgage dated and recorded on May 31, 2012 under Instrument No. 837301, executed by Karen Young Sook Kim in favor of Bank of Hawaii in the principal amount of \$230,000.00, and; 2) Assignment of Rental Income dated and recorded May 31, 2012, under Instrument No. 837302, executed by Karen Young Sook Kim, Assignor to Bank of Hawaii, Assignee. Developer will obtain a partial release of the above referenced Real Property Mortgage and Assignment of Rental Income from Bank of Hawaii for each unit at the time of conveyance of such unit.

- 3. STAFF RECOMMENDATION:** Recommend issuance of a Sixth Supplementary Final Public Report in order for the developer to continue to sell the remaining 2 condominium units, and pursuant to §45154 of Chapter 45, Title 21 the issuance of this Sixth Supplementary Final Public Report is for a period of thirteen months to end on March 26, 2016.



Marvin Q. Aguilar
Chief Planner

Case Planner: Celine Cruz

GUAM LAND USE COMMISSION

Department of Land Management

RESOLUTION 2015-01

WHEREAS, the Guam Land Use Commission (*hereafter GLUC*) maintains the fundamental authority over land use-related regulations, with particular interest in the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam in the execution of its authority; and

WHEREAS, such regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements; and

WHEREAS, The GLUC, through statutory support provided by the Department of Land Management, maintains jurisdiction of all matters relating to subdividing and subsequent use and/or development of all Guam lands within the territory, notwithstanding those in possession by the federal government; and

WHEREAS, The GLUC has the authority to prescribe and adopt rules and regulations, which include, *but not be limited to*, specifications and standards for development of subdivisions, as are, *in its judgment*, necessary to effectuate the *purpose and intent* of Guam's subdivision law; and

WHEREAS, the GLUC, in its authority, may provide for delegation of functions of review and inspection of proposed tentative and final plans and maps, and of subdivisions, to other agencies and departments of the government; and

WHEREAS, pursuant to Title 21, Guam Code Annotated, Chapter 75, Section 75105, the Chamorro Land Trust Commission, (*hereafter CLTC*) is restricted from the sale or exchange, or similar instrument of alienation of public lands without the approval of the Guam Legislature and therefore notwithstanding the provisions of law, the intent of this resolution is intended only for public lands as identified within the official inventory of the CLTC for agricultural and residential purposes only; and

WHEREAS, the CLTC may designate and plan subdivisions in accordance with the provisions of Chapter 62 of Title 21GCA, on available lands, in, adjacent to, or near any village; and

WHEREAS, pursuant to Title 21, Chapter 75(d) The CLTC is authorized to carry on any activities it deems necessary to assist lessees in obtaining maximum utilization of leased lands, including taking any steps necessary to develop these lands for their highest and best use

commensurate with the purposes for which the land is being leased pursuant to Title 21, Chapter 75, §75107; and

WHEREAS, pursuant to Title 21, Chapter 75, §75103(e) The CLTC, may designate and plan subdivisions in accordance with the provisions of Chapter 62 of this Title 21 Guam Code Annotated, on available lands, in, adjacent to, or near any village. As well with such subdivision lots shall be leased in accordance with Title 21, Chapter 75, §75107; and,

WHEREAS, the CLTC, by virtue of its authority, has embarked in an effort to effectuate a series of land subdivision master plans as a means to insure its fiduciary responsibility of efficient and effective distribution of land resources to its trust benefactors for the purpose of residential and agricultural use; and

WHEREAS, the CLTC desires to create and prescribe an appropriate and workflow process in designing and developing land subdivision by utilizing information resources and expertise of the Divisions of Land Survey and Planning in the Department of Land Management;

WHEREAS, such subdivision master plans are to serve as development templates for each new CLTC- sponsored subdivision created strictly for subsistent agricultural and residential uses and designed to ensure;

NOW THEREFORE BE IT RESOLVED, that:

1. The Guam Land Use Commission accepts the Chamorro Land Trust Commission's endeavor to apply extensive master planning efforts of large and medium parcels of government land, whereby the purpose of such endeavor is:
 - a. To encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements;
 - b. To ensure government land resources are made readily available and appropriately distributed amongst qualified CLTC benefactors; and
 - c. To encourage a process of control over the distribution of government land resources under the CLTC land inventory for the purpose of agricultural and residential use; such that,
 - d. Through such controls, to encourage the application of fundamental land subdivision requirements as practicable under the subdivision laws of Guam, however, such responsibilities shall be tasked to the Department of Land Management, particularly the Division of Land Planning and Land Survey Division.
2. The GLUC, in its authority, delegates the function of review and inspection of proposed preliminary and final subdivision master plan maps for CLTC to the Department of Land Management. **Final approval of said master plan maps shall remain the responsibility of the Chairman of the GLUC.**

3. The GLUC, in its authority, directs the Department of Land Management's Land Planning and Land Survey Division to initiate work plans for the purpose of designing subdivision master plans for all medium and large tracts of CLTC land assets. Such work plan shall contain:
 - a. Schematic drawing requirements as provided in 21GCA, Chapter 62, Subdivision Law.
 - b. Workflow processes involving CLTC & DLM coordination, planning, and review.
4. Both Land Planning and Land Survey Divisions shall be responsible for applying all necessary technical and administrative services as necessary to insure each master planned subdivision plat will reflect:
 - a. The intent to protect and promote the public health, safety and general welfare of the people of the Territory of Guam; and
 - b. The intent to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements.
5. Both Land Planning and Land Survey Divisions as recognizant of the duties, regulations, and policies of government agencies whose mandates effectuate compliance on the construction and application of infrastructure, particularly the Department of Public Works, Guam Environmental Protection Agency, Guam WaterWorks Authority, and Guam Power Authority.

***SO SAYETH THE GUAM LAND USE COMMISSION AND ITS CHAIRMAN,
THIS 25TH DAY OF FEBRUARY IN THE YEAR OF OUR LORD, 2015.***

LAWRENCE RIVERA
CHAIRMAN, GUAM LAND USE COMMISSION

DATE

JOHN ARROYO
VICE-CHAIRMAN, GUAM LAND USE COMMISSION

DATE